

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7613 of 2007

Dated:19.04.2007

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Between:

Kondapaneni Ramu.

... Petitioner

AND

The District Panchayat Officer and another.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7613 of 2007

ORDER:

The petitioner is a resident of Poranki Village of Penamaluru Mandal in Krishna District. He along with other persons occupied the land in R.S.No.489 (classified as Government Poramboke land) and residing there in an extent of Ac.0.03 cents. The petitioner also raised a cattle shed and allegedly paying revenue/tax to the Gram Panchayat. When there was interference from Smt.Chigurupati Venkata Subbamma, he filed O.S.No.1018 of 2001 on the file of the Court of the III Additional Junior Civil Judge, Vijayawada, for injunction. The same was decreed on 03.11.2003. The petitioner alleges that the second respondent started threatening to dispossess him though he is entitled for grant of patta as a landless poor person. He made a representation to the first respondent, who by memo dated 31.03.2007 asked the second respondent to look into the matter. In spite of the same, the second respondent is attempting to dispossess the petitioner, and therefore, the present Writ Petition is filed.

The Panchayat Secretary of Poranki Gram Panchayat filed a counter affidavit opposing the Writ Petition. It is alleged that the land in R.S.No.489 of Poranki Village is classified as Punta Poramboke, and the same was illegally encroached upon by the petitioner to an extent of 191 square yards. He also constructed thatched house with Door Nos.11-63 and 11-64. Subsequently, the petitioner sold away the cattle shed and thatched house to Sri Kolla Srihari. He is not in possession of the land as alleged. After selling away the encroached

land on 06.12.2006, the petitioner again tried to occupy another piece of land. A complaint was made to the District Panchayat Officer, who by proceedings dated 15.02.2007, directed the Gram Panchayat to protect the land. Accordingly, the petitioner was prevented from encroaching upon the Government land. The petitioner is not in possession of the land, and therefore, the allegations are not true.

The petitioner has filed a reply affidavit denying the counter averments. He has further stated that he is in continuous possession and enjoyment of House No.11-64, and that House No.11-63 was not allotted to the thatched house of the petitioner. He also denied the allegation that he sold away the land with thatched sheds.

According to the second respondent, the petitioner is not in possession of the land. He himself sold away the land and thatched houses, which he encroached upon, to Sri Kolla Srihari. This is, however, denied and disputed. However, the petitioner does not dispute that pursuant to the orders of the District Panchayat Officer, dated 15.02.2007, the second respondent prevented the petitioner from encroaching upon the other land. There is a disputed question of fact as to whether the petitioner is in possession of the Government land in R.S.No.489 or not. When there is an affidavit evidence by both the parties, in the absence of any documentary evidence that the petitioner is in possession of the land, no relief can be granted to the petitioner.

The Writ Petition is accordingly, dismissed. No costs.

(V.V.S.RAO, J)

19.04.2007

vs